

## SCHEDULE 1

### End User Agreement

**WARNING: Under no circumstances will Royal Mail authorise the supply of Suppression Data to an End User prior to the Licensed Reseller having obtained the End User's acceptance of the terms of this EULA.**

#### RECITALS:

- (A) Royal Mail provides the Redirection Service to Redirection Customers who wish to have mail addressed to them forwarded to a new address. To apply for this service, Redirection Customers complete the Redirection Form, including their Suppression Data. Alternatively, similar details will be provided to Royal Mail when a Redirection Customer orders the service over the telephone or online. Royal Mail then inputs Suppression Data onto a computerised database.
- (B) Royal Mail licenses the Licensed Reseller to use the NCOA® Suppress to provide suppression services to End Users.
- (C) The End User has requested that the Licensed Reseller provide the Services in order to update the End User's customers' records contained in the Customer Database. The use of the Suppression Data is conditional upon the End User accepting the terms of this EULA (End User Licence Agreement) with Royal Mail.

#### AGREEMENT:

### 1 Definitions and Interpretation

- 1.1 In this EULA, where the context allows, the following words and expressions have the following meanings:

**Batch Processing** the automated electronic processing of a batch of Customer Records in a Customer Database against Suppression Data in the NCOA® Suppress Database for the purpose of identifying Matches;

**Confidential Information** any information of a confidential or proprietary nature (irrespective of the form, presentation or communication including computer software and data, physical objects and samples and, in the case of Royal Mail, the Suppression Data, whether before or after it is incorporated into a Customer Database) relating to the business, operations, customers, processes, budgets, product information, know-how and/or strategies of either Party;

**Customer Database** an electronic compilation of Customer Records;

**Customer Record** the name and address of a current or lapsed customer or prospective customer of the End User which have been lawfully and fairly obtained by the End User solely for the purposes of marketing, commercial communications or customer administration and where the End User is a Public Body, such references to customer shall be deemed to mean any individual over whom such Public Body has or exercises competence under its statutory powers or duties;

**Data Protection Legislation** the Data Protection Act 1998, Directive 95/46/EC of the European Parliament, the General Data Protection Regulation (GDPR) (EU) 2016/679, the Electronic Communications Data Protection Directive 2002/58/EC and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any legislation and/or regulations implementing them or made in pursuance of them including where applicable the guidance and codes of practice issued by the Information Commissioner;

**EEA** the European Economic Area comprising, for the time being, the EU member states, Norway, Iceland Liechtenstein and the United Kingdom;

**End User** the individual, company or other legal entity which is the owner or licensor of the Customer Database;

**EULA** this end user licence agreement between the Parties;

**Intellectual Property Rights** all intellectual property rights including copyright and related rights, database rights, trade marks and trade names, patents, topography rights, design rights, trade secrets, know-how, and all rights of a similar nature or having similar effect which subsist anywhere in the world, whether or not any of them are registered and applications for registrations, extensions and renewals of any of them;

#### Law

- (i) any applicable statute or proclamation or any delegated or subordinate legislation;
- (ii) any enforceable Community right within the meaning of section 2(1) of the European Communities Act 1972;
- (iii) any applicable guidance, direction, determination or regulations with which either Party is bound to comply to the extent that the same are publicly available or the existence or contents of them have been notified to the other Party;
- (iv) any applicable judgment of a relevant court of law which is binding precedent in England, in each case in force at any time during the term of this EULA;

**Licensed Reseller** the individual, company or other legal entity which is licensed by Royal Mail Group Limited to use the Suppression Data in the provision of Services to the End User;

**Match** each instance where through Batch Processing, a name and address contained in the Customer Database is matched to a name and address in the NCOA® Suppress Database;

**NCOA® Suppress Database** a database containing Suppression Data selected, arranged and compiled by Royal Mail and stored on electronic media and including any updates to it;

**Old Address** the address specified by a Redirection Customer as that from which mail should be redirected, as subsequently amended by Royal Mail, if necessary, to ensure that the address information is correct for Royal Mail's postal purposes;

**Party** the End User or Royal Mail, as applicable (together, the Parties);

**Permitted Purpose** carrying out Batch Processing and in relation to any Match either: (i) deleting the name and address records which appear in the Customer Records of the relevant existing customer or prospective customer to whom the Match relates, for the purposes of a one-off mailing campaign by the End User; or (ii) providing a permanent flag against the address of the relevant existing customer or prospective customer to whom the Match relates; and (iii) for the avoidance of any doubt, the Permitted Purpose shall not, in accordance with Data Protection Legislation, include sending any marketing to individuals;

**Public Body** any department, office or agency of Her Majesty's Government or any local government authority or agency or any other public authority;

**Redirection Customer** a customer of the Redirection Service whose post is, at the relevant time, being redirected by Royal Mail from the relevant Old Address to the relevant new address pursuant to such service;

**Redirection Form** the application form for individuals who wish to use the Redirection Service;

**Redirection Service** Royal Mail's service for the redirection of mail provided to members of the public who have requested such service whereby mail which has been addressed to their Old Address is redirected to and delivered at their New Address;

**Reseller Agreement** Royal Mail's agreement with the Licensed Reseller under the terms of which Royal Mail licenses the Licensed Reseller to use the NCOA® Suppress Database for the purposes of the Services;

**Royal Mail** Royal Mail Group Limited, a company registered in England & Wales under registered number 04138203 whose registered office is at 100 Victoria Embankment, London, EC4Y 0HQ;

**Services** the address updating service which shall be provided by the Licensed Reseller to End Users in accordance with the EULA pursuant to which the Licensed Reseller carries out Batch Processing in accordance with the Permitted Purpose;

**Suppression Data** address data held by Royal Mail on the NCOA® Suppress Database and updated on a periodic basis which is derived from the Old Address information provided by Redirections Customers on the Redirections Form once the Redirection Service has expired in relation to the relevant Redirection Customer;

**Working Day** any day which is not a Saturday, a Sunday or a bank or public holiday in England.

- 1.2 In this EULA unless the context otherwise requires:
  - 1.2.1 references to one gender include references to all genders and references to the singular include the plural and vice versa;
  - 1.2.2 clause headings are for convenience only and will not affect the construction of this EULA;
  - 1.2.3 any reference to an enactment or statutory provision is a reference to it as it may have been or may from time to time be amended, replaced or re-enacted;
  - 1.2.4 references to persons shall include references to individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships;
  - 1.2.5 any phrase introduced by the expressions including, include or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
  - 1.2.6 references in this EULA to the NCOA® Suppress Database shall be deemed to include Suppression Data or any part of it, as the context so requires.

## 2 **Licence**

- 2.1 In consideration of the End User complying with the terms of this EULA, Royal Mail grants to the End User a non-exclusive, non-transferable, revocable right in the EEA to use the Suppression Data received as part of the Services for the Permitted Purpose only. The End User shall in no circumstances use the Suppression Data for the purpose of detecting fraud or money laundering.
- 2.2 The End User warrants and undertakes that any Customer Database (in respect of which Batch Processing is being performed) is owned or licensed by the End User for the End User's own use and comprises only Customer Records used for the purposes of marketing, commercial communications and routine administration. In each case, the address in each Customer Record will be complete to the best of the End User's knowledge prior to Batch Processing.
- 2.3 Except as expressly permitted in this EULA, the End User must not at any time reproduce, publish, sell, let, lend, extract, utilise, process or otherwise disclose the Suppression Data or the Customer Database after Batch Processing (in whole or in part), either directly or indirectly, and the End User must treat Suppression Data as Confidential Information.

- 2.4 The End User may only use the Suppression Data for the Permitted Purpose. For the avoidance of doubt, the End User must:
  - 2.4.1 ensure that Suppression Data supplied by way of a Match is immediately integrated into the Customer Records; and
  - 2.4.2 not try to access, extract, utilise or process Suppression Data except through Batch Processing and not carry out any Individual Look Ups or any other means of looking up Suppression Data concerning a specific individual where this is not expressly permitted by Royal Mail for the Licensed Reseller.
- 2.5 The End User must pay the Licensed Reseller for all Matches it obtains through its use of the Services.
- 2.6 The End User agrees to indemnify and keep indemnified Royal Mail against all losses, costs, claims and damages suffered or incurred by Royal Mail directly or indirectly as a result of a breach of any provision of this EULA by the End User.
- 2.7 At any time during the term of this EULA, on the provision of two (2) Working Days' notice from Royal Mail, the End User shall give Royal Mail and its agents reasonable accompanied access during working hours to its premises, computer systems, accounts, documents and records for the purpose of verifying and monitoring the End User's compliance with this EULA.

### 3 **Liability of Royal Mail**

- 3.1 The End User acknowledges that Royal Mail does not warrant:
  - 3.1.1 the accuracy and/or completeness of the Suppression Data;
  - 3.1.2 that the NCOA® Suppress Database contains the names and addresses of all Redirection Customers; nor
  - 3.1.3 that the NCOA® Suppress Database does not infringe the Intellectual Property Rights of any third party.
- 3.2 The End User agrees that Royal Mail will not be liable for any loss or damage (whether direct or indirect) however arising from the use by the End User, or performance of, Suppression Data, with the exception of death or personal injury caused by Royal Mail's negligence.
- 3.3 The End User acknowledges that Royal Mail will not be liable to the End User in respect of the Services provided by the Licensed Reseller.
- 3.4 The End User acknowledges that Royal Mail will not be obliged in any circumstances to provide Suppression Data or related services directly to the End User.

### 4 **Property Rights in Suppression Data**

- 4.1 The Intellectual Property Rights in Suppression Data supplied to the End User as part the provision of the Services shall remain at all times the property of Royal Mail.
- 4.2 The licence to use the Suppression Data is personal to the End User. The End User may not license or assign the Intellectual Property Rights in the Suppression Data except as expressly permitted under this EULA or as otherwise agreed in writing by Royal Mail. For the avoidance of doubt, this EULA does not operate as an assignment by Royal Mail to the End User of any Intellectual Property Rights that might subsist in or relate to the Suppression Data.
- 4.3 The End User acknowledges that it will not acquire any rights of any nature in or in relation to the Suppression Data as a result of the End User's use beyond those rights specifically granted in this EULA. If the End User challenges the validity of the Intellectual Property Rights in or relating to the Suppression Data or Royal Mail's title to those Intellectual Property Rights Royal Mail may suspend or terminate this EULA with immediate effect by giving notice to the End User.
- 4.4 The End User will not do or permit the doing of anything within its control which will prejudice in any way whatsoever the name of Royal Mail or the rights of Royal Mail in the Suppression Data and will give immediate notice to Royal Mail upon the End User becoming aware of anything which may prejudice the name of Royal Mail or the rights of Royal Mail in the Suppression Data.
- 4.5 The End User undertakes to Royal Mail that it will give immediate notice to Royal Mail upon its becoming aware of any unauthorised use of the Suppression Data or any other of the Intellectual Property Rights of Royal Mail.
- 4.6 Royal Mail may bring any action for any such unauthorised use on behalf of itself and at its cost and the End User shall co-operate fully in any such action. The End User is not granted any separate right of action relating to Royal Mail's Intellectual Property Rights in respect of any such unauthorised use and disclaims any such separate right that it may have as far as such a disclaimer is permitted by Law.
- 4.7 Upon termination of this EULA, the licence in Clause **Error! Reference source not found.** shall continue in respect of Suppression Data that has been supplied to the End User through the Licensed

Reseller's performance of the Services and incorporated into the Customer's Database as at the date of termination provided that the End User continues to use such Suppression Data for the Permitted Purpose and in accordance with the limits on use of Suppression Data contained in this EULA which shall continue to operate in respect of such Suppression Data after the termination of this EULA.

4.8 The provisions of this Clause will continue to operate after the termination of this EULA.

## 5 **Data Protection**

5.1 For the purposes of this clause 5 data "controller", data "processor", "data subject", "personal data" and "processing" (and "process" and "processes" shall be construed accordingly) shall have the meanings ascribed to them in the Data Protection Legislation.

5.2 The Parties' attention is drawn to the Data Protection Legislation. The Parties' acknowledge and agree that it is the factual arrangement between them which dictates the role and status of each party under Data Protection Legislation in respect of processing any personal data under this EULA. Notwithstanding the foregoing, the parties anticipate that they shall, subject to the terms of this EULA, each separately determine the purposes for which and the manner in which any personal data is required to process in connection with this EULA, and therefore, for the purposes of the this EULA are each a data controller in respect of such personal data.

5.3 The End User acknowledges that the terms of this EULA are structured in order to comply with the Data Protection Legislation. The End User undertakes that it will use the Suppression Data only in accordance with the Permitted Purpose and will not do or omit to do any act which would place it or Royal Mail in breach of the Data Protection Legislation.

5.4 Each Party undertakes to the other that it will duly observe all its obligations under the Data Protection Legislation which arise in connection with the performance of this EULA.

5.5 The End User agrees to comply with the Data Protection Legislation as it applies to its use of Suppression Data (including compliance with any data protection notices and opt out and/or opt in wording on the Redirections Form as amended from time to time by Royal Mail).

5.6 The End User must not disclose, pass or sell all or part of the Suppression Data outside the EEA without the prior written consent of Royal Mail.

## 6 **Assignment**

The End User must not assign, sub-contract or otherwise deal with this EULA, or any part of it.

## 7 **Termination**

7.1 If this EULA expires or is terminated for any reason, this EULA will automatically be terminated.

7.2 Royal Mail may terminate this EULA at any time if the End User fails to comply with any of its terms.

7.3 Royal Mail may terminate this EULA immediately if the End User brings Royal Mail into disrepute.

7.4 Royal Mail may terminate this EULA immediately if (i) the End User becomes unable to pay its debts (within the meaning of section 123(1)(e) or (2) of the Insolvency Act 1986), admits its inability to pay its debts or becomes insolvent; or (ii) a petition is presented, an order made or a resolution passed for the liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction), administration, bankruptcy or dissolution of the End User; or (iii) an administrative or other receiver, manager, trustee, liquidator, administrator or similar person or officer is appointed to the End User and/or over all or any part of the assets of the End User; or (iv) the End User enters into or proposes any composition or arrangement concerning its debts with its creditors (or any class of its creditors) generally; or (v) anything equivalent to any of the events or circumstances stated in (i) to (iv) inclusive occurs in any applicable jurisdiction.

7.5 The termination of this EULA will not affect liability for preceding breaches.

7.6 Upon termination for any reason, each party shall immediately cease processing the Personal Data of the other.

## 8 **Confidentiality**

8.1 The End User agrees that it shall, in relation to any Confidential Information:

8.1.1 keep it confidential and not disclose it to any other person other than to its professional advisers, employees, agents and sub-contractors on a need to know basis;

8.1.2 not copy or reproduce any part of the Confidential Information except as permitted under this EULA without the prior written approval of the other Party;

8.1.3 apply to the Confidential Information no lesser security measures and degree of care than those which it takes in protecting its own confidential information and in any event no less than that which a reasonable person or business would take in protecting its own confidential information; and

- 8.1.4 use the Confidential Information only for the purposes of this EULA.
  - 8.2 The End User shall take all reasonable measures to ensure that its professional advisers, employees, agents and sub-contractors comply with the terms of this Clause **Error! Reference source not found.**
  - 8.3 The obligations contained in this Clause 8 shall not apply to any Confidential Information which:
    - 8.3.1 was, is or has become lawfully available to the public otherwise than through breach of this EULA;
    - 8.3.2 was disclosed to either Party by a third party legally in possession of the Confidential Information and who was not restricted from disclosing it; and
    - 8.3.3 was independently created by or already in the possession of either Party.
  - 8.4 The Parties agree that Clause **Error! Reference source not found.** shall not apply to any Suppression Data.
  - 8.5 Either Party who is required by a court of law or other competent jurisdiction or any other regulatory authority to disclose any Confidential Information in order to comply with any such law or order of any such Court or regulatory authority may do so, but that Party must, where reasonably practicable, give the other Party not less than seven (7) days' notice of such disclosure.
- 9 General**
- 9.1 This EULA records the entire agreement between the Parties and supersedes all earlier agreements and representations by the Parties on the subject matter of the EULA. This Clause does not exclude liability for any fraudulent misrepresentation by either Party.
  - 9.2 The rights, powers and remedies provided in this EULA are (except as expressly provided) cumulative and not exclusive of any rights, powers and remedies provided by Law, or otherwise.
  - 9.3 Nothing in this EULA shall (except as expressly provided) be deemed to constitute a partnership, or create a relationship of principal and agent for any purpose between the Parties.
  - 9.4 The failure to exercise, or delay in exercising, a right, power or remedy provided by this EULA or by Law shall not constitute a waiver of that right, power or remedy. If a Party waives a breach of any provision of this EULA this shall not operate as a waiver of a subsequent breach of that provision, or as a waiver of a breach of any other provision.
  - 9.5 This EULA is subject to English Law. The Parties agree to submit to the exclusive jurisdiction of the English courts.
  - 9.6** In the event that the Licensed Reseller and the End User enter into a separate licence relating to the provision of the Services, the terms of this EULA may not be varied or superseded by, and will prevail over, any such licence.

<p>Dated .....</p> <p>Signed .....</p> <p>Full name .....</p> <p>Position .....</p> <p>By the Licensed Reseller <b>[insert company name]</b> for and on behalf of Royal Mail Group Limited</p> <p>Dated .....</p> <p>Signed .....</p> <p>Full name.....</p> <p>Position .....</p> <p>For and on behalf of .....</p> <p><b>[Insert full details of End User company]</b></p>
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